

of manufacture, that is, a thin film explosive detonator, in class 102, subclass 200, on which at least claims 1-7 are readable, without traverse.

Regarding the election of claimed species regarding invention I, Applicant respectfully traverses on the grounds that a generic claim can include a reasonable number of species so that a search and examination of all the species at one time would not impose a serious burden on the Examiner. Applicant submits that this application presents this situation.

Indeed, the Applicant submits that claim 1 appears generic leaving dependent claims 2-7. Since a search for the elements of the claimed invention identified in independent claim 1 would also cover the related limitations of dependent claims 2-7, it is not clear to Applicant of the different species envisioned. (See 37 C.F.R. §141(a) and 37 C.F.R. §146).

Further, Applicant respectfully submits that the subject matter of all of claims 1-16 is sufficiently related that a thorough search for the subject matter of any one group of claims would overlap a search for the subject matter of the remaining claims. In particular, the metal layer is comprised of one element selected from copper, nickel, cadmium and silver. All four elements share similar characteristics as being transitional elements in Groups 9, 10 and 11 of the Periodic Table and, more particularly, copper and silver being in the same Group 11, as well as nickel and copper both being in the same row of the Periodic Table. Thus, Applicant respectfully submits that the search and examination of the entire application, or at least claims 1-7, could be performed without serious burden to the Examiner.

Please note, for emphasis, the Office Action explicitly refers to Invention I, which includes claims 1-7, as being classified in class 102, sub-class 200, and Claims 8-13, as being classified in class 102, sub-class 277.1. Thus, further suggesting a search could be performed without serious burden. (See M.P.E.P. § 803; and Office Action, Page 2).

Applicant respectfully submits that the policy requiring the examination of the entire application, even though it may include distinct inventions and/or species, should be applied in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office. Applicant respectfully requests reconsideration and withdrawal of the election of species requirement and to examine all species and claims in this application, or at least the elected invention.

In addition, Applicant would like to submit that the case law, including In re Weber, 14 U.S.P.Q. 2d 1407 (Fed. Cir. 1990) and In re Harnish, 631 F.2d 716, 206 U.S.P.Q. 300 (C.C.P.A. 1980) as well as the M.P.E.P. Section 803.02, indicate that a Markush claim should be examined unless the subject matter in the claims lack unity of invention. Claims possess unity of invention when they share a common utility and share a substantial structural feature, disclosed, as being essential to that utility, e.g., copper and silver, as discussed above.

However, in the alternative, should the Examiner still not be persuaded by the above discussion, and to facilitate prosecution though reserving the right to Petition an Election Requirement, Applicant elects, with traverse, a specie of invention I. The specie includes a metal layer comprising copper, a reaction of metal layer comprising a gas phase reactant, and depositing the metal layer by sputtering.

Finally, as indicated above, regarding the above article of manufacture on which at least claims 8-16 are readable, Applicant respectfully does not elect these claims but reserves the right to file, timely, a divisional application containing these claims.

Early favorable prosecution on the merits is respectfully requested.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

Respectfully submitted,

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